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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

COURTHOUSE NEWS SERVICE,	) Case No. 8-17-CV-126 AG (KESx)
	)
Plaintiff,	) <b>APPLICATION FOR LEAVE TO</b>
	) <b>FILE <i>AMICI CURIAE</i> BRIEF AND</b>
v.	) <b>BRIEF OF <i>AMICI CURIAE</i></b>
	) <b>ORANGE COUNTY BAR</b>
DAVID YAMASAKI, IN HIS	) <b>ASSOCIATION, FAMILY</b>
OFFICIAL CAPACITY AS COURT	) <b>VIOLENCE APPELLATE</b>
EXECUTIVE OFFICER/CLERK	) <b>PROJECT, LEGAL AID OF</b>
OF THE ORANGE COUNTY	) <b>ORANGE COUNTY, PUBLIC</b>
SUPERIOR COURT,	) <b>LAW CENTER, AND VETERANS</b>
	) <b>LEGAL INSTITUTE IN SUPPORT</b>
Defendant.	) <b>OF DEFENDANT'S OPPOSITION</b>
	) <b>TO PLAINTIFF'S MOTION FOR</b>
	) <b>PRELIMINARY INJUNCTION</b>
	)
	) Date: March 20, 2017
	) Time: 10:00 a.m.
	) Courtroom: Court 10D, Santa Ana
	Division

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CENTRAL DISTRICT OF CALIFORNIA  
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COURTHOUSE NEWS SERVICE,	)	Case No. 8-17-CV-126 AG (KESx)
	)	
Plaintiff,	)	<b>APPLICATION FOR LEAVE TO</b>
	)	<b>FILE <i>AMICI CURIAE</i> BRIEF</b>
v.	)	
	)	
DAVID YAMASAKI, IN HIS	)	
OFFICIAL CAPACITY AS COURT	)	
EXECUTIVE OFFICER/CLERK	)	Date: March 20, 2017
OF THE ORANGE COUNTY	)	Time: 10:00 a.m.
SUPERIOR COURT,	)	Courtroom: Court 10D, Santa Ana
	)	Division
Defendant.	)	

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE THAT proposed *amici curiae*, the Orange County  
3 Bar Association, Family Violence Appellate Project, Legal Aid of Orange County,  
4 Public Law Center, and Veterans Legal Institute, request permission to file the  
5 attached *amici curiae* brief in support of Defendant David Yamasaki, in his official  
6 capacity as Court Executive Officer/Clerk of the Orange County Superior Court.

7 District courts have broad discretion to permit third parties to participate in  
8 an action as *amicus curiae*. See *Ctr. for Biological Diversity v. U.S. Bureau of*  
9 *Land Mgmt.*, No. 09-CV-8011, 2010 WL 1452863, at \*2 (C.D. Ariz. Apr. 12, 2010)  
10 (citing *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir.1982)). This Court and  
11 other courts in the Central District have routinely granted applications for leave to  
12 file an amicus brief. *Davies v. Broadcom Corp.*, 130 F. Supp. 3d 1343, 1347 (C.D.  
13 Cal. 2015) (granting Securities and Exchange Commission leave to file an *amicus*  
14 brief); *Am. Trucking Ass'ns, Inc. v. City of Los Angeles*, No. CV 08-04920 CAS,  
15 2008 WL 4381644, at \*2 (C.D. Cal. Sept. 4, 2008) (finding that “amicus brief may  
16 be of assistance to the Court in determination of the substantive issues” and  
17 granting leave to participate as *amicus curiae*); *Int’l Ass’n of Machinists &*  
18 *Aerospace Workers v. Org. of Petroleum Exporting Countries*, 477 F. Supp. 553,  
19 575 (C.D. Cal. 1979) (“With the persistent initiative of plaintiff, aided by the  
20 outstanding Amicus curiae briefs . . . , the Court has been able to arrive at a just  
21 and legally unassailable position here.”), *aff’d*, 649 F.2d 1354 (9th Cir. 1981).

22 The role of *amicus curiae* is to “provide assistance in a case of general  
23 interest, supplement the efforts of counsel in the case, and draw the court’s  
24 attention to legal arguments that have escaped consideration.” *Ctr. for Biological*  
25 *Diversity*, 2010 WL 1452863, at \*2. *Amicus curiae* briefs are particularly  
26 appropriate when the legal issues in a case “have potential ramifications beyond  
27 the parties directly involved.” *Sonoma Falls Developers, LLC v. Nevada Gold &*

1 *Casinos, Inc.*, 272 F. Supp. 2d 919, 925 (N.D. Cal. 2003); *NGV Gaming, Ltd. v.*  
 2 *Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005).  
 3 District courts have accepted *amicus curiae* briefs for filing in cases like this,  
 4 which implicate the First Amendment and privacy considerations. *See, e.g., USA v.*  
 5 *In the Matter of the Search of an Apple iPhone Seized During the Execution of a*  
 6 *Search Warrant on a Black Lexus IS300, Cal. License Plate #35KGD203*, No.  
 7 5:16-cm-0010-SP (C.D. Cal.); *IMDb.com, Inc. v. Becerra*, No. 3:16-cv-6535-VC  
 8 (N.D. Cal.).

9 The *amici curiae* brief here will assist the Court in assessing the privacy  
 10 interests of litigants when determining whether complaints must be released before  
 11 Orange County Superior Court (“OCSC”) completes its confidentiality review of  
 12 them. Specifically, this brief addresses (1) litigants’ constitutional right to privacy  
 13 under both the United States and California Constitutions, (2) cases in which courts  
 14 have weighed an individual’s right to privacy against the public’s right to access  
 15 judicial information when determining whether to allow disclosure of the  
 16 information, and (3) how Orange County litigants’ constitutional and statutory  
 17 right of privacy should be weighed in determining whether to issue a preliminary  
 18 injunction in this case. The arguments *amici curiae* present are complementary to,  
 19 but not duplicative of, the briefing submitted by the parties.

20 *Interest of amici curiae.* The Orange County Bar Association (“the Bar”) is  
 21 one of the largest voluntary bar associations in California, with over 8,500  
 22 members. It provides a wide variety of programs, services, and opportunities for  
 23 its attorney members, the judiciary, and the community. The Bar’s mission  
 24 includes enhancing the system of justice and assisting the community served by the  
 25 Bar. The Bar is a leader in the legal community in Orange County, dedicated to  
 26 engaging with the community and promoting access to justice for all Orange  
 27 County residents. Accordingly, the Bar is interested in the impact the preliminary  
 28



1 injunction requested by Plaintiff Courthouse News Service (“CNS”) would have  
2 on the litigants that members of the Bar serve.

3 Family Violence Appellate Project (“FVAP”) is a nonprofit organization  
4 dedicated to ensuring, through the appellate legal system, the safety and well-being  
5 of domestic violence survivors and their children. FVAP provides legal assistance  
6 to domestic violence survivors at the appellate level through direct representation,  
7 collaborating with pro bono attorneys, offering training to those who practice  
8 family law, and advocating for domestic violence survivors on important appellate  
9 issues. FVAP monitors California family law litigation and has identified this case  
10 as one that has the potential to impact the interests of domestic violence victims.

11 Legal Aid of Society of Orange County (“LASOC”) has provided free legal  
12 services to low-income residents in Orange County and Southeast Los Angeles  
13 since 1958. With limited resources, LASOC focuses its legal programs and  
14 services on the community’s most vulnerable population and tries to end clients’  
15 cycle of poverty. Within those priority areas, two areas of legal services that  
16 LASOC prioritizes is the representation of victims of domestic violence and  
17 tenants facing unlawful detainer proceedings. The Orange County Superior  
18 Court’s confidentiality policy allows for victims to keep their contact or home  
19 address confidential for their own safety, and, in unlawful detainer matters, allows  
20 tenants to defend their case without the eviction visible to future landlords. In  
21 particular, LASOC has a client who recently benefited from this policy. LASOC’s  
22 client had been married to her husband for nine years. Her husband sponsored her  
23 to immigrate from India. The marriage quickly turned, and her husband began to  
24 control and abuse her. Her husband has been arrested multiple times and has at  
25 least two criminal protective orders. Eventually, she was able to obtain a domestic  
26 violence restraining order and able to keep her contact information confidential so  
27



1 he could not find her. As a result, she was able to obtain a car, find a full-time job,  
2 and will soon be looking for her own place to live.

3 Public Law Center (“PLC”) is Orange County’s pro bono law firm. PLC  
4 staff and volunteers provide free civil legal services to low-income Orange County  
5 residents in the areas of consumer, veterans, small business, immigration, health,  
6 housing, and family law. In its work, PLC represents many of the most vulnerable  
7 members of our community, including tenants defending unlawful detainer actions  
8 and victims of domestic violence in all types of cases. PLC staff and volunteers  
9 regularly appear in both limited and unlimited civil cases in Orange County  
10 Superior Court. We believe that the preliminary injunction requested by  
11 Courthouse News Service would significantly impact our clients and could lead to  
12 the disclosure of our clients’ protected information.

13 Veterans Legal Institute (“VLI”) provides pro bono legal assistance to  
14 current and former members of the United States military who are homeless, at risk,  
15 disabled, or low income. VLI strives to fulfill two critical objectives. First, it seeks  
16 to remove barriers to housing, healthcare, education, and employment by providing  
17 legal services. Second, VLI advocates for increased protections for veterans and  
18 military members by educating concerned civilians, decision-makers, and attorneys  
19 as to veterans-related issues. VLI is located in Santa Ana, California.

20 For the foregoing reasons, *amici curiae* request that the Court permit the  
21 filing of the attached *amici curiae* brief in support of OCSC.  
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Respectfully submitted,

Dated: March 10, 2017

HAYNES AND BOONE, LLP

By: /s/ Mary-Christine Sungaila

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Plaintiff,	) <b>BRIEF OF <i>AMICI CURIAE</i></b>
	) <b>ORANGE COUNTY BAR</b>
v.	) <b>ASSOCIATION, FAMILY</b>
	) <b>VIOLENCE APPELLATE</b>
DAVID YAMASAKI, IN HIS	) <b>PROJECT, LEGAL AID OF</b>
OFFICIAL CAPACITY AS COURT	) <b>ORANGE COUNTY, PUBLIC LAW</b>
EXECUTIVE OFFICER/CLERK	) <b>CENTER, AND VETERANS</b>
OF THE ORANGE COUNTY	) <b>LEGAL INSTITUTE IN SUPPORT</b>
SUPERIOR COURT,	) <b>OF DEFENDANT'S OPPOSITION</b>
	) <b>TO PLAINTIFF'S MOTION FOR</b>
Defendant.	) <b>PRELIMINARY INJUNCTION</b>
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## INTRODUCTION

Certain litigants have both a federal and state constitutional right to privacy over all or some of the information in complaints filed by or against them—in addition to a statutory right to privacy over this information. Releasing complaints to the public before Orange County Superior Court (“OCSC”) completes its review of the complaints for confidential information would place these litigants’ constitutional and statutory right to privacy at risk. Any qualified right of Courthouse News Service (“CNS”) to timely access complaints should be weighed against litigants’ right to privacy, and *amici curiae* urge the Court to hold that the litigants’ right to privacy outweighs any qualified right to access complaints before they are reviewed for privacy concerns. Accordingly, CNS’s request for a preliminary injunction that requires OCSC to release complaints before confidentiality review should be denied.

## ARGUMENT

### **I. Releasing complaints to the public before they are reviewed for confidentiality would place litigants’ federal and state constitutional right to privacy at risk.**

The right to privacy is protected by both the United States and California Constitutions. *In re Crawford*, 194 F.3d 954, 958 (9th Cir. 1999); *Hill v. Nat’l Collegiate Athletic Ass’n*, 865 P.2d 633, 641 (Cal. 1994). “[United States] Supreme Court precedents delineate . . . distinct kinds of constitutionally-protected privacy interests” under the United States Constitution, one being “the individual interest in avoiding disclosure of personal matters,” which is “referred to as the right of ‘informational privacy.’” *In re Crawford*, 194 F.3d at 958 (citations omitted). Similarly, the California Constitution enumerates “‘privacy’” as one “of the ‘inalienable rights’ of all Californians.” *Hill*, 865 P.2d at 641 (quoting CAL. CONST. art. 1, § 1). A cause of action for invasion of the state constitutional right

1 to privacy has three elements: “(1) a legally protected privacy interest; (2) a  
 2 reasonable expectation of privacy in the circumstances; and (3) conduct by  
 3 defendant constituting a serious invasion of privacy.” *Id.* at 675.

4 These constitutional privacy rights are independent of—yet reflected in—  
 5 numerous California statutes and rules of court that forbid public disclosure of  
 6 certain types of complaints or information therein, in both limited and unlimited  
 7 civil cases.<sup>1</sup> For example, the California Code of Civil Procedure provides that the  
 8 current legal name of a petitioner in a petition for name change under the address  
 9 protection program, who is the victim of domestic violence, stalking, or sexual  
 10 assault, “shall be kept confidential by the court.” CAL. CIVIL PROC. CODE  
 11 § 1277(b); *see also* CAL. RULES OF COURT, RULE 2.575.<sup>2</sup> As another example, the  
 12 California Rules of Court prohibit all documents in a juvenile court case from  
 13 being disclosed to the general public. CAL. RULES OF COURT, RULE 5.552. As a  
 14 final example, the California Code of Civil Procedure restricts disclosure of certain  
 15 unlawful detainer court files to the general public during the first sixty days of suit.  
 16 CAL. CIVIL PROC. CODE § 1161.2(a).<sup>3</sup>

17  
 18 <sup>1</sup> *See* Def.’s Opp’n Pl.’s Mot. Prelim. Inj. at 5-6 (listing numerous California  
 19 statutes and rules of court that provide for confidentiality); CAL. CIVIL PROC. CODE  
 §§ 85-89 (defining a limited civil case and unlimited civil case).

20 <sup>2</sup> A petition for name change is an unlimited civil case. Cases for Over \$25,000,  
 21 CALIFORNIA COURTS, <http://www.courts.ca.gov/1065.htm> (last visited March 8,  
 22 2017); Chart of Initial Filing Fees in Civil Cases, SUPERIOR COURT OF CALIFORNIA,  
 23 COUNTY OF ORANGE, <http://www.occourts.org/general-public/fee-schedule/> (last  
 24 visited March 8, 2017). In its reply brief, CNS indicates that the privacy of name  
 25 changes pursuant to the address protection program are protected because they are  
 26 not required to be e-filed; however, CNS’s preliminary injunction, as requested,  
 27 would apply to all unlimited civil cases, regardless of whether they are e-filed or  
 28 not.

<sup>3</sup> An unlawful detainer case in which the amount in controversy exceeds \$25,000 is  
 an unlimited civil case. Preparing the Unlawful Detainer Complaint, SUPERIOR

1 Thus, domestic violence, stalking, and sexual assault victims have a legally  
 2 protected privacy interest in their current legal name in petitions; juveniles have a  
 3 legally protected privacy interest in entire complaints against them; and defendants  
 4 sued for unlawful detainer have a legally protected privacy interest in complaints  
 5 against them. And these are only some examples of litigants' legally protected  
 6 privacy interests, which CNS does not dispute.

7 These litigants have a reasonable expectation that the private information  
 8 legally forbidden to be disclosed will not be disclosed, whether they or their  
 9 opposing party correctly designates the complaint as confidential or not. If OCSC  
 10 is not allowed to ensure compliance with confidentiality statutes and rules of court  
 11 before releasing complaints to the public, then legally protected private  
 12 information might be released to the public. Such revelations would be  
 13 particularly serious if the private information is then electronically published by  
 14 the media to a large audience. Accordingly, all of the elements of invasion of the  
 15 state constitutional right to privacy will likely be met, and a violation of the federal  
 16 constitutional right to privacy will likely occur, if complaints are released to the  
 17 public before a confidentiality review can be done by the court.

18 **II. Any qualified right of CNS to timely access complaints should be**  
 19 **weighed against litigants' constitutional and statutory right to privacy.**

20 CNS contends it has a right to access complaints before OCSC completes its  
 21 confidentiality review. Not so. As CNS itself admits in its motion, any right to  
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23 COURT OF CALIFORNIA, COUNTY OF ORANGE, [http://www.occourts.org/self-](http://www.occourts.org/self-help/landlordtenant/preparingyourcomplaint.html)  
 24 [help/landlordtenant/preparingyourcomplaint.html](http://www.occourts.org/self-help/landlordtenant/preparingyourcomplaint.html); Chart of Initial Filing Fees in  
 25 Civil Cases, SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE,  
 26 <http://www.occourts.org/general-public/fee-schedule/> (last visited March 8, 2017).  
 27 In its reply brief, CNS states that only limited unlawful detainer cases are entitled  
 28 to privacy protection. Even if true, only a review by OCSC can determine whether  
 unlawful detainer cases are properly filed as limited (and thus entitled to privacy  
 protection) or unlimited.

1 access is “‘a **qualified** right.’” CNS’s Mem. Supp. Mot. Prelim. Inj. at 10  
 2 (emphasis added) (quoting *Courthouse News Serv. v. Planet* (Planet III), No. 11-  
 3 08083, 2016 WL 4157210, at \*12 (C.D. Cal. May 26, 2016)). Indeed, in cases in  
 4 which the public’s right to access judicial information competes against an  
 5 individual’s right to privacy, courts routinely weigh the two rights against one  
 6 another to determine whether to allow public disclosure of the information.

7 For example, in a dispute over whether to publicly disclose a defendant’s  
 8 psychiatric competency report, the Ninth Circuit “balanced the competing interests  
 9 of the parties,” specifically weighing “the media’s need for disclosure” against  
 10 “[the defendant]’s privacy interests.” *United States v. Kaczynski*, 154 F.3d 930,  
 11 931-32 (9th Cir. 1998). The Ninth Circuit explained that, in cases involving “the  
 12 common-law right of access” and “the public’s and the media’s common-law right  
 13 to inspect and copy judicial records and documents,” “the court must balance the  
 14 media’s asserted need against any asserted reasons for confidentiality.” *Id.* at 931.

15 Similarly, in a dispute brought by the media to obtain search warrants and  
 16 affidavits during a pre-indictment investigation, the Ninth Circuit held that the  
 17 privacy interests of the people identified in the warrants and affidavits was a  
 18 “factor weighing against public access.” *Times Mirror Co. v. United States*, 873  
 19 F.2d 1210, 1211, 1216 (9th Cir. 1989). The Ninth Circuit observed that “[o]ther  
 20 courts have also taken account of the privacy rights of individuals when  
 21 considering access requests to judicial documents.” *Id.* at 1216; *see also In re*  
 22 *Crawford*, 194 F.3d at 958-960 (“weighing” the public’s right to access judicial  
 23 documents against the litigant’s informational privacy).

24 Like the Ninth Circuit, California state courts also weigh these competing  
 25 rights. For example, the California Supreme Court held that information contained  
 26 in the State Bar of California’s bar admissions database had to be publicly  
 27 disclosed because of the right of public access, but only if, among other things, the



1 information could be provided in a form that protected the privacy of applicants.  
 2 *Sander v. State Bar of Cal.*, 314 P.3d 488, 491, 494-95 (Cal. 2013). Also, when  
 3 deciding whether to seal a court record, California courts must determine whether  
 4 “[t]here exists an overriding interest that overcomes the right of public access to  
 5 the record,” and privacy is one such potential overriding interest. CAL. RULES OF  
 6 COURT, RULE 2.550(d)(1) & advisory committee cmt. (citing *NBC Subsidiary v.*  
 7 *Superior Court*, 980 P.2d 337, 368 n.46 (Cal. 1999)).<sup>4</sup> For instance, in a dispute  
 8 over sealing financial information, the California Court of Appeal for the First  
 9 Appellate District, Division One, conducted a “balancing inquiry” to determine  
 10 “whether the state-recognized privacy interest in financial information overrides  
 11 the federal constitutional right of access to court records.” *Overstock.com v.*  
 12 *Goldman Sachs Grp.*, 180 Cal. Rptr. 3d 234, 246-48, 262 (Cal. Ct. App. 2014).  
 13 Likewise, in a dispute over sealing medical records, the California Court of Appeal  
 14 for the Sixth Appellate District “conclude[d] that the public’s general right of  
 15 access to court records . . . must give way to the public’s concern about the privacy  
 16 of medical information,” which is protected by the federal constitution, state  
 17 constitution, and state statute. *Oiye v. Fox*, 151 Cal. Rptr. 3d 65, 86, 90-92 (Cal. Ct.  
 18 App. 2012). The Court of Appeal further stated that “surely the courts are not  
 19 powerless to prevent court files from becoming the conduits of disclosure of  
 20 sensitive private information,” and “[t]he court’s files and records are also subject  
 21 to the court’s control.” *Id.* at 91-92.

22 \_\_\_\_\_  
 23 <sup>4</sup> To be clear, CNS does not claim that it should have access to any sealed records,  
 24 and the standard for sealing court records does “not apply to records that are  
 25 required to be kept confidential by law.” CAL. RULES OF COURT, RULE  
 26 2.5550(a)(2). Further, permanently sealing a complaint is much different than  
 27 postponing access to a complaint in order to review it for confidential, private  
 28 information. *Amici curiae* discuss authority about sealing records only to show  
 examples of how courts weigh the right to access against the right to privacy in  
 other scenarios.

1 Just as courts have weighed the right to access various judicial information  
 2 against the litigant's right to privacy in these cases, this Court should weigh any  
 3 qualified right of CNS to timely access complaints against litigant's constitutional  
 4 and statutory right to privacy. To not do so would disregard a valuable  
 5 constitutional right, and treat the right to access as an absolute right when it is at  
 6 best a qualified right.

7 **III. Litigants' constitutional and statutory right to privacy outweighs any**  
 8 **qualified right of CNS to timely access complaints before they are**  
 9 **reviewed to protect private, confidential information.**

10 Here, the significant privacy interests at stake make the timing of access to  
 11 complaints reasonable. Timing is particularly reasonable given that, according to  
 12 OCSC's data, over 98% of complaints are publicly available within the first two  
 13 business days they are filed.<sup>5</sup>

14 OCSC postpones the public's access to complaints, including CNS's access,  
 15 in order to complete a review that ensures litigants' privacy rights are not violated.  
 16 As mentioned above, the litigants whose privacy rights are at stake include, among  
 17 others, victims of domestic violence, stalking, and sexual assault; juveniles; and  
 18 defendants in unlawful detainer suits. These types of litigants are generally some  
 19 of the most vulnerable of all litigants. If OCSC is not allowed to complete a  
 20 confidentiality review before releasing complaints involving these litigants, then  
 21 these litigants' private information might be released to the public. Such a  
 22 constitutional and statutory privacy violation would be particularly serious if CNS  
 23 electronically publishes the litigants' private information to a large audience.

24 CNS seems to assert that it is the plaintiff's responsibility—not OCSC's—to  
 25 ensure privacy interests are not violated when filing a complaint. However, many  
 26 plaintiffs, especially those whose privacy rights are at stake, are self-represented

27 <sup>5</sup> See Def.'s Opp'n Pl.'s Mot. Prelim. Inj. at 7-8.

1 and thus less equipped to navigate privacy and filing rules. *See Task Force on*  
2 *Self-Represented Litigants*, REPORT TO THE JUDICIAL COUNCIL OF CALIFORNIA,  
3 Attachment A at 1-3 (Oct. 2014), [http://www.courts.ca.gov/partners/](http://www.courts.ca.gov/partners/documents/EA-SRLTaskForce_FinalReport.pdf)  
4 [documents/EA-SRLTaskForce\\_FinalReport.pdf](http://www.courts.ca.gov/partners/documents/EA-SRLTaskForce_FinalReport.pdf) (explaining that the majority of  
5 litigants in civil cases are self-represented and that, for example, ninety percent of  
6 tenants in unlawful detainer suits were self-represented in 2003 in California).  
7 Moreover, the privacy of **defendants** is at risk too, and should not be entrusted to  
8 the care of plaintiffs.

9 For these reasons, the brief postponement of CNS's alleged right to access is  
10 outweighed by the harm to litigants that could occur if their privacy rights are  
11 violated. The seriousness of the federal and state constitutional right to privacy at  
12 stake makes relief at the preliminary injunction stage—particularly when the  
13 preliminary injunction would upend the status quo and require OCSC to remove  
14 privacy protections currently in place—unsuitable.

1 **CONCLUSION**

2 For the foregoing reasons, and the reasons expressed in OCSC's briefing,  
3 the Court should deny CNS's request for a preliminary injunction.  
4

5 Dated: March 10, 2017

HAYNES AND BOONE, LLP

6  
7 By: /s/ Mary-Christine Sungaila

8 Mary-Christine Sungaila  
9 Counsel for *Amici Curiae*  
10 Orange County Bar Association  
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**PROOF OF SERVICE**

I hereby certify that on March 10, 2017, I filed the forgoing  
**APPLICATION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF AND  
BRIEF OF *AMICI CURIAE* ORANGE COUNTY BAR IN SUPPORT OF  
PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION** with the  
Court through this district’s CM/ECF system. Pursuant to Local Rule 5 – 3.3, the  
“Notice of Electronic Filing” automatically generated by the CM/ECF at the time  
the document is filed with the system constitutes automatic service of the  
document on counsel of record who have consented to electronic service.

Dated: March 10, 2017

By: /s/ Mary-Christine Sungaila

Mary-Christine Sungaila